

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TERRY EZELL,

Case No. C23-729RSM

Plaintiff,

ORDER DENYING MOTION FOR RECUSAL

V.

SHAWNA MCCANN.

Defendant.

This matter comes before the Court on Plaintiff Terry Ezell's Motion for Recusal. Dkt. No. 1. Mr. Ezell states that the undersigned judge was involved in his prior criminal case and that he is an ongoing appeal. The events of that criminal case are at issue in this civil action. Mr. Ezell states he:

has a history with judge martinez dating back 19 years, judge martinez has resided [sic] over two previous criminal cases involving plaintiff, in case #2:05-cr-00273-RSM-1. Plaintiff received a 262 month sentence by judge martinez, and in the most recent case #2:21-cr-00062-RSM-1. Plaintiff received a 121 month sentence by judge martinez, Plaintiff believes that his history with judge martinez has allowed the judge to form an opinion of the plaintiff an [sic] as a result, plaintiff believes that the judge will display a personal bias or prejudice concerning the proceedings.

Dkt. #8 at 3. Plaintiff argues that the undersigned's rulings in those cases were in error and that he was not given a fair sentence when compared with other co-conspirators. *See id.* at 4.

Pursuant to 28 U.S.C. § 455(a), a judge of the United States shall disqualify himself in any proceeding in which his impartiality “might reasonably be questioned.” Federal judges also disqualify themselves in circumstances where they have a personal bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceeding. *See* 28 U.S.C. § 455(b)(1). However, “a judge’s prior adverse ruling is not sufficient cause for recusal.” *United States v. Studley*, 783 F.2d 934, 939 (9th Cir. 1986); *see also Taylor v. Regents of Univ. of Cal.*, 993 F.2d 710, 712 (9th Cir. 1993) (“[t]o warrant recusal, judicial bias must stem from an extrajudicial source.”).

As the Court reads Mr. Ezell’s Motion, he is relying solely on this Court’s prior adverse rulings as evidence of bias. This is insufficient to warrant recusal. *See Studley, supra; Taylor, supra.* Mr. Ezell presents no reasonable basis to question impartiality. Accordingly, the undersigned judge declines to voluntarily recuse himself.

Having reviewed the relevant briefing and the remainder of the record, the Court hereby finds and ORDERS:

1. Mr. Ezell’s Motion for Recusal, Dkt. #8, is DENIED.
2. In accordance with LCR 3(f), this Order is referred to the Honorable David G. Estudillo for review of this decision. The Clerk is directed to provide a copy of this Order to Chief Judge Estudillo.

DATED this 6th day of July, 2023.



RICARDO S. MARTINEZ
UNITED STATES DISTRICT JUDGE